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1-9-2019

## Gennaro Rauso v. Warden Schuylkill FCI

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UNITED STATES COURT OF APPEALS  
FOR THE THIRD CIRCUIT

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No. 18-1431

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GENNARO RAUSO,  
Appellant

v.

WARDEN SCHUYLKILL FCI; CLERK OF COURTS FOR THE UNITED STATES  
DISTRICT COURT FOR THE EASTERN DISTRICT OF PA

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On Appeal from the United States District Court  
for the Middle District of Pennsylvania  
(M.D. Pa. Civil Action No. 1-17-cv-00720)  
District Judge: Honorable Christopher C. Conner

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Submitted for Possible Dismissal Pursuant to 28 U.S.C. § 1915(e)(2)(B) or  
Summary Action Pursuant to Third Circuit LAR 27.4 and I.O.P. 10.6

June 28, 2018

Before: CHAGARES, GREENAWAY, Jr., and FUENTES, Circuit Judges

(Opinion filed: January 9, 2019)

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OPINION\*

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PER CURIAM

\* This disposition is not an opinion of the full Court and pursuant to I.O.P. 5.7 does not constitute binding precedent.

Gennaro Rauso, a federal prisoner proceeding pro se, appeals orders of the United States District Court for the Middle District of Pennsylvania dismissing his petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241 and denying his motion for reconsideration. For the reasons that follow, we will affirm.

Rauso claims in his habeas petition that the Clerk of the United States District Court for the Eastern District of Pennsylvania failed to enter his motions and papers on the docket of his criminal case and returned his papers to him in violation of his First Amendment right of access to the courts. As recognized by the District Court, Rauso's claim is not cognizable in a habeas action. See Preiser v. Rodriguez, 411 U.S. 475, 484 (1973) (stating that the essence of habeas corpus is an attack upon the legality of custody and that the traditional function of the writ is to secure release from illegal custody); Coady v. Vaughn, 251 F.3d 480, 485 (3d Cir. 2001) (noting that § 2241 confers habeas corpus jurisdiction over petitions by federal prisoners challenging the execution of their sentences).

Accordingly, because this appeal does not raise a substantial question, we will affirm the judgment of the District Court.<sup>1</sup>

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<sup>1</sup>Rauso's motion to voluntarily dismiss this appeal without prejudice or, in the alternative, stay disposition of the appeal pending the adjudication of his September 6, 2018 filing in District Court is denied. To the extent Rauso requests in his motion additional time to file a response to possible summary action or dismissal of his appeal, his request is denied. Rauso has been afforded two extensions of time and has been advised that no further extensions would be granted. Rauso's third motion for an extension of time and motion to consolidate his appeals is also denied.